The meeting was called to order at 3.10 p.m.

Meeting with States Members of the United Nations

Meeting with non-governmental organizations and civil society

1. **The Chair**, recalling that the General Assembly had recently convened a high-level meeting in New York to commemorate the tenth anniversary of the adoption of the Convention, said that, at that event, the United Nations High Commissioner for Human Rights had called on more States to ratify the Convention and had suggested that the Committee should set itself the goal of doubling the number of States parties to the Convention within a specified time period.

2. Although the Convention had been ratified by 56 States Members of the United Nations, only 22 of those States had recognized the competency of the Committee to receive communications under articles 31 and 32 of the Convention. In the light of that situation, he suggested that the Committee might wish to discuss ways of increasing the number of States parties to the Convention and consider why some States parties had not yet recognized the competency of the Committee to receive communications. Any States that were reluctant to ratify the Convention because they were already overburdened with reporting obligations should note that the Convention did not require States parties to submit periodic reports.

3. **Mr. Hazan** said that he wished to acknowledge those States parties that had attended the first Conference of the States Parties to the Convention, held on 19 December 2016, at which it had been decided that the Convention would continue to be monitored by the Committee.

4. **The Chair** said that the Committee would take seriously the comments made by States parties at the Conference and would strive to address any concerns that had been raised.

5. **Mr. Decaux**, welcoming both the recent confirmation of the Committee as the monitoring body for the Convention pursuant to its article 27 and the commemoration of the tenth anniversary of the adoption of the Convention, said that the challenge remained of meeting the targets set in General Assembly resolution 68/268 on the strengthening of the human rights treaty body system.

6. The Committee would need to launch an effective communication strategy if it wished to achieve the goal of doubling the number of States having ratified the Convention within five years. Steps should be taken to produce, translate and disseminate documentation on the Convention, such as the explanatory leaflet produced by the Secretariat for the members of the General Assembly.

7. **Mr. Heinzer** (Switzerland), after noting that Switzerland had ratified the Convention in December 2016, said that statements submitted to the Human Rights Council and the universal periodic review process could be a useful way of encouraging more States to ratify the Convention. He would welcome information about the Committee's views on the treaty body strengthening process, specifically on the targets set in General Assembly resolution 68/268.

8. **The Chair**, in welcoming the ratification of the Convention by Switzerland, said that the number of States parties to the Convention was steadily increasing.

9. **Ms. Gobbi** (Argentina) said that Argentina fully supported the work carried out by the Committee, which had always responded swiftly to the requests it received for urgent action. The importance of the recommendations made as part of the universal review process had been demonstrated by the fact that the Government of Czechia had recently thanked the Government of Argentina for recommending that it ratify the Convention. According to the Government of Czechia, the recommendation in question had played an important part in facilitating the ratification process.

10. The dialogue between the Committee and States was important in that it fostered cooperation and provided information on the action that the Committee planned to take in the future. It was hoped that such dialogues would continue to be held.

11. **The Chair** said that the Committee had reason to be grateful to the Governments of Argentina, France, Japan and Morocco as they had been instrumental in the process of drafting, adopting and subsequently strengthening the Convention.

12. **Mr. Figallo Rivadeneyra** said that it was important for the Committee and the States parties to work together to encourage more States to ratify the Convention. States that had ratified the Convention had overcome a number of obstacles in order to do so and therefore had valuable experience that should be shared with other States. Likewise, the States parties that had made the declarations under articles 31 and 32 of the Convention should help other States parties to do so by sharing information on how they had managed to overcome the various obstacles that they had faced.

13. The Convention formed part of an interrelated legal framework that also covered the crime of torture, the issue of refugees, extradition and other matters. The question of enforced disappearance therefore concerned relations between States, rather than individual States. For that reason, it was necessary for States to work together to increase the number of ratifications of the Convention.

14. **The Chair** said that prospective States parties would not receive an overwhelming number of complaints upon ratifying the Convention as victims usually had various options available, depending on the instruments to which their State was a party, and they would seek help from the treaty body that was best able to assist them in their particular situation.

15. **Mr. Huhle** said that it was not clear why some States in which enforced disappearance was a serious problem had not ratified the Convention, while others in which the problem barely existed had ratified it. It was equally important for every State to be a party to the Convention, irrespective of whether enforced disappearance was a significant problem for it individually. Most States that had ratified the Convention had confirmed that taking that step had been useful in enabling them to address not only the problem of enforced disappearance but also other aspects of their domestic legislation. It was necessary to determine what prevented certain States from ratifying the Convention.

16. **The Chair**, concurring that it was necessary to find out why certain States had failed to ratify the Convention, noted that very few Asian countries were parties.

17. **Ms. Shino** (Japan) said that countries in all regions, including Asia, were affected by the phenomenon of enforced disappearance. For that reason, Japan took every opportunity to encourage other States to ratify the Convention. In explaining why they had not ratified the Convention, some States had indicated that they were overwhelmed by existing reporting obligations, while others had said that, in their opinion, the issue of enforced disappearance was covered by other international instruments. In her view, the latter argument should be countered by drawing attention to the cases of enforced disappearance that were not covered by any other instrument.

18. As the number of ratifications increased, it would become increasingly difficult for the Committee to identify which States parties had problems that needed to be addressed, particularly as there was no periodic reporting requirement. In view of that situation, she wished to know how Committee members proposed to ensure that problems involving enforced disappearance would be identified and addressed.

19. Lastly, she suggested that the Committee should share its experience with other committees to enable them to work more effectively.

20. **The Chair** said that the annual meeting of the Chairs of the human rights treaty bodies provided an opportunity to discuss the strengths and weaknesses of each Committee's working methods. As more States ratified the Convention and submitted their initial reports, the risk that the Committee would encounter challenges in considering those reports in a timely manner would, in fact, increase. The number of requests for urgent action received from each State party gave a good indication of which States faced problems in the area of enforced disappearance.

21. **Ms. Lecaros Terry** (Peru) said that Peru had attended the Conference of the States Parties to the Convention in December 2016 and had supported the renewal of the Committee's mandate. The Convention was an important instrument that should be ratified by all States. The reluctance of some States to do so could perhaps be explained by an unwillingness to be questioned, examined and held to account by the Committee and by the fear that political groups or interests might use the process as a pretext for attacking Governments.

22. **The Chair** said that those concerns highlighted the need for States parties to ensure that they appointed experts to treaty bodies who operated in an independent and impartial manner in accordance with General Assembly resolution 68/268.

23. **Mr. Michel Blin** (Mexico) said that, by ratifying the Convention, a State showed that it was genuinely committed to promoting and protecting individuals from the crime of enforced disappearance. Mexico was convinced that the work of the Committee helped it to address the significant challenges that it faced in eradicating that crime. The progress that it had made in that regard was demonstrated by the fact that a draft law to harmonize legislation on enforced disappearance was currently under consideration.

24. It was most likely true that some States were reluctant to subject themselves to international scrutiny out of fear that they would be criticized in the concluding observations issued by treaty bodies. Despite the domestic political cost that it had sometimes incurred, Mexico had ratified the instruments of all the treaty bodies and received visits from various special rapporteurs.

25. **The Chair**, noting that some States parties had commented on the extent to which they had been scrutinized, said that, to use a medical analogy, it was better to be over-examined than never to go to the doctor.

26. **Mr. Huhle** said that, as the case of the Syrian Arab Republic had showed, States that declined to ratify international instruments did not escape international scrutiny. Mexico was to be commended on its willingness to expose itself to such scrutiny. Referring to the absence of periodic reports, he agreed that the Committee would likely have difficulty monitoring the situation of enforced disappearance in the various States parties. In that regard, he would welcome suggestions on how to create a fair, economical system for scrutinizing States parties that would be successful in the long term.

27. **Mr. Alatiyyah** (Iraq), after congratulating the Committee on the renewal of its mandate, said that he endorsed the statements made by the representatives of Japan and Mexico. The Convention filled a significant gap in human rights law and ratification of the Convention was a recommendation that Iraq often made in the context of the universal periodic review. While he recognized that the lack of a periodic reporting requirement posed some challenges, which he was confident the Committee would successfully resolve, it was also an incentive to become a party to the Convention. In response to the reluctance of some States to open themselves up to yet more international scrutiny, the Committee could hold Iraq up as an example of a State that had not let its difficult security situation and the myriad implications thereof deter it from ratifying the Convention.

28. **The Chair** said that enforced disappearance was indeed a global issue, as witnessed by the fact that the mandate of the Working Group on Enforced or Involuntary Disappearances, originally established with a specific region in mind, had been continuously renewed in order to address situations that had emerged from time to time in new areas around the globe.

29. **Mr. López Ortega,** thanking the States parties for their confidence in the Committee as illustrated by the renewal of its mandate, said that the Committee had managed to more than double the number of States parties in its first six years and had committed to doubling the current figure over the coming five years. The Committee had much to be proud of, in particular the adoption of its rules of procedure, the establishment of a highly effective system for monitoring States and protecting victims, and the consolidation of jurisprudence. However, it had struggled in some areas, chiefly in terms of ratification. While States had to accept the fact that being part of the United Nations

implied being subjected to a degree of criticism, it was also true that the treaty bodies had a role to play in mitigating the disadvantages of the current system.

30. A larger concern was the regionalization of the Convention to the detriment of its universality and, consequently, of its wider ratification. The reluctance to ratify was not limited to Asian countries and was partly due to the perception that the Convention was relevant only to States where enforced disappearance was a problem. However, the Convention was not just about enforced disappearance per se; it was, above all, about prevention. The Convention was the most comprehensive international instrument that regulated the guarantee of liberty of the person and interpreted the rights of persons deprived of their liberty, and that was of relevance to all States.

31. Recalling that between 2017 and 2019 the Committee would see a complete turnover of its original membership, he said that the new membership would have to seriously reflect on the development of the Convention in the decade to 2030.

32. **Mr. Decaux**, referring to the substantive discussions held with Member States, said that they reflected the system's growing maturity. In relation to the question on the Convention's value added, he pointed out that the Convention was not only a compilation of the provisions of other United Nations and regional treaties but it also provided for a new human right, namely that of not being subjected to enforced disappearance. Defining an act as an offence led to the establishment of legal regimes and penalties commensurate with the seriousness of the offence. Furthermore, the Convention contained modern preventive measures. It was a twenty-first century instrument that provided an innovative bridge between criminal law, international criminal cooperation and preventive measures.

33. Regarding General Assembly resolution 68/268, it would be crucial to create areas of synergy among all the treaty bodies so as to make international human rights law more consistent and ensure the rationality of the system as a whole. However, it was equally important to defend the specificities of the Convention and the Committee's mandate, in particular the absence of a periodic reporting cycle. The Committee had to remain nimble in order to facilitate the process for States parties but also to respond quickly whenever the need arose. It was because of those competing interests that the resolution had been so carefully worded. The Chairs of the treaty bodies might endorse guidelines but, ultimately, each Committee adopted or adapted measures to fit its specific mandate. Thus, it was more realistic to seek to strengthen the treaty body system rather than try to overhaul it.

34. **Mr. Hazan**, acknowledging that other instruments indeed dealt with the need to criminalize and investigate cases of enforced disappearance, locate victims and prevent further cases from being perpetrated, said that what set the Convention apart was that it provided guidance on how to achieve those objectives, which was a good argument in favour of ratification. The Committee was in the process of determining how to continue to monitor States parties once they had submitted their initial — and only — report. It was a considerable challenge to develop an effective and flexible alternative to the traditional reporting model that would be convenient for States but still ensure the defence of victims.

35. **Mr. Salifou** (Togo), basing himself on the experience of Togo, said that States in which enforced disappearance was not a problem may not have ratified the Convention simply because of a lack of resources or institutional capacity. In addition, lawmakers sometimes needed to be convinced why enforced disappearance should take precedence over other issues. In that connection, the universal periodic review had been very useful for Togo.

36. **The Chair** said that he agreed that more work had to be carried out with legislatures.

37. **Ms. Balthar** (Brazil), in reaffirming the commitment of Brazil to the tenets of the Convention and to cooperating with the Committee, said that respect for human rights was enshrined in the Brazilian Constitution and was a component of the country's foreign policy. Referring to the point raised about the degree of scrutiny being exercised, she said that Brazil was of the view that international monitoring strengthened States and their public policies. Given the perception that the Convention was an instrument designed specifically for Latin America, she asked how the Committee addressed the topicality of enforced disappearance as a global issue.

38. **Mr. Elgannas** (Libya), while commending the Committee on its work, said that Libya was not yet a party to the Convention because it simply was not ready. It currently lacked both stability and institutional capacity; without support from the international community, that situation would not be resolved. At the same time, the Government of National Accord was still struggling to impose its legitimacy. The foregoing notwithstanding, the Government was receiving encouragement to consider becoming a party to human rights instruments and to engage fully with associated mechanisms. The Presidential Council had reiterated its commitment to interacting with human rights mechanisms in a positive manner, and the Government had issued a statement on the occasion of the International Day of the Victims of Enforced Disappearances. It was to be hoped that all cases of enforced disappearance, both those perpetrated before and after 2011, would receive the Government's attention shortly.

39. **Ms. Pagès** (Geneva for Human Rights), after congratulating the Committee on the renewal of its mandate, said that the offence of enforced disappearance had always been a priority for her organization, which had been actively involved in the establishment of the Working Group on Enforced or Involuntary Disappearances in 1980, the drafting of the Declaration on the Protection of All Persons from Enforced Disappearance in 1992 and the negotiation of the Convention. Geneva for Human Rights had monitored all the Committee's sessions and had held three expert meetings with the Committee and the Working Group. In 2016, its focus had been on preparing for the Conference of the States Parties to the Convention, including by distributing a list of the Committee's activities to non-governmental organizations (NGOs), calling on associations of relatives and other human rights organizations to prepare statements for the Conference and holding a preparatory meeting with NGOs. At the Conference, Geneva for Human Rights representatives had read out a number of statements on behalf of various NGOs.

40. She welcomed the political momentum created by the High Commissioner's call at the high-level meeting held in New York to double the number of ratifications within five years. It was an ambitious target that could be achieved only through a multi-actor strategy involving States and coalitions of relatives and human rights organizations. In that connection, Geneva for Human Rights, jointly with the Geneva Centre for Security Policy, would be holding an expert meeting on enforced disappearance in September 2017; she invited the Committee to attend a preparatory workshop that would be held on 15 March 2017.

41. **Mr. Al-Obaidi** said that he had received a request for information from Libya a few months prior on how to put in place the requisite system. Pointing out that States should not wait for enforced disappearance to become a problem for them before ratifying the Convention, he urged all States to ratify the Convention, especially those in the Middle East.

42. **The Chair** thanked the participants for their valuable input.

The discussion covered in the summary record ended at 5 p.m.